

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

WAVE NEUROSCIENCE, INC. a Delaware  
Corporation,

Plaintiff,

vs.

BRAIN FREQUENCY LLC, a Texas Limited  
Liability Company

Defendant.

Case No. 5:23-CV-00626-XR

Honorable: Xavier Rodriguez

**DECLARATION OF J. RICK TACHÉ IN SUPPORT OF PLAINTIFF’S RESPONSIVE  
CLAIM CONSTRUCTION BRIEF**

I, J. Rick Taché, declare as follows:

1. I am an attorney duly approved to practice law in the State of California and, for purposes of this case, admitted *pro hac vice* to practice law in the State of Texas. I am a shareholder at the law firm of Buchalter, counsel for Plaintiff Wave Neuroscience, Inc. in this action. The facts stated herein are within my personal knowledge and if called upon to testify I can truthfully and competently do so as to all matters herein. This declaration is submitted in support of Plaintiff’s Responsive Claim Construction Brief.


2. The following is a true and correct portion of Trac9.com’s website, from <https://trac9.com/> (last visited May 30, 2024), showing it “work[s] with” Windmill Wellness:



3. The “Windmill Wellness” emblem in the above excerpt is hyperlinked, and when clicked, it takes you to the website for Windmill Wellness Ranch website at <https://windmillwellnessranch.com/> (last visited May 30, 2024).

4. Below is a true and correct copy of an excerpt of the Texas Franchise Tax Public Information Report for Windmill Wellness Ranch LLC for the reporting year 2022, dated May 12, 2022 identifying the President and a Director as Shannon Malish and a Director as Julia Cline-Sellers:

**Texas Franchise Tax Public Information Report**  
To be filed by Corporations, Limited Liability Companies (LLC) and Financial Institutions  
**This report MUST be signed and filed to satisfy franchise tax requirements**

 05-102 (Rev. 9-11/30) **Tcode 13196 Franchise**

■ Taxpayer number **3 2 0 6 2 5 6 2 2 9 6** ■ Report year **2 0 2 2** *You have certain rights under Chapter 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at (800) 252-1381 or (512) 463-4600.*

Taxpayer name **WINDMILL WELLNESS RANCH LLC**

Mailing address **26229 N CRANES MILL RD** Secretary of State (SOS) file number or Comptroller file number **0802624500**

City **CANYON LAKE** State **TX** ZIP Code **78133** Plus 4

Principal office

Principal place of business

*Please sign below!* Officer, director and manager information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or managers change throughout the year.

**SECTION A** Name, title and mailing address of each officer, director or manager.

Name	Title	Director	Term expiration
<b>JULIA CLINE-SELLERS</b>	<b>DIRECTOR</b>	<input checked="" type="radio"/> YES	<b>3206256229622</b>
Mailing address <b>1267 KINGS POINT DR</b>	City <b>CANYON LAKE</b>	State <b>TX</b>	ZIP Code <b>78133</b>
<b>SHANNON MALISH</b>	<b>DIRECTOR</b>	<input checked="" type="radio"/> YES	
Mailing address <b>110 CLEAR POND</b>	City <b>SPRING BRANCH</b>	State <b>TX</b>	ZIP Code <b>78070</b>
<b>SHANNON MALISH</b>	<b>PRESIDENT</b>	<input type="radio"/> YES	
Mailing address <b>110 CLEAR POND</b>	City <b>SPRING BRANCH</b>	State <b>TX</b>	ZIP Code <b>78070</b>

5. Below is a true and correct copy of the Texas Franchise Tax Public Information Report for Brain Frequency LLC for the reporting year 2023, dated May 12, 2023. identifying as Members Shannon Malish and Julia Cline:

**Texas Franchise Tax Public Information Report**  
 To be filed by Corporations, Limited Liability Companies (LLC) and Financial Institutions  
 This report **MUST** be signed and filed to satisfy franchise tax requirements

Comptroller of Public Accounts FORM 05-102 (Rev. 9-11/30) Tcode 13196 Franchise

■ Taxpayer number **3 2 0 7 4 2 4 1 1 5 2** ■ Report year **2 0 2 3** *You have certain rights under Chapter 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at (800) 252-1381 or (512) 463-4600.*

Taxpayer name <b>BRAIN FREQUENCY LLC</b>				Secretary of State (SOS) file number or Comptroller file number	
Mailing address <b>26229 N CRANES MILL RD # FH</b>					
City <b>CANYON LAKE</b>	State <b>TX</b>	ZIP Code <b>78133</b>	Plus 4	<b>0803617643</b>	

● Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office \_\_\_\_\_

Principal place of business \_\_\_\_\_

*Please sign below!* Officer, director and manager information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or managers change throughout the year.

**SECTION A** Name, title and mailing address of each officer, director or manager.

Name	Title	Director	Term expiration
<b>JULIA CLINE</b>	<b>MEMBER</b>	<input type="radio"/> YES	<div style="display: flex; justify-content: space-between;"> <div>m m d d y y</div> <div>3207424115223</div> </div>
Mailing address <b>1267 KINGS POINT DR</b>	City <b>CANYON LAKE</b>	State <b>TX</b>	ZIP Code <b>78133</b>
<b>SHANNON MALISH</b>	<b>MEMBER</b>	<input type="radio"/> YES	<div style="display: flex; justify-content: space-between;"> <div>m m d d y y</div> </div>
Mailing address <b>113 CLEAR POND COURT</b>	City <b>SPRING BRANCH</b>	State <b>TX</b>	ZIP Code <b>78133</b>
Name	Title	Director	Term expiration
		<input type="radio"/> YES	<div style="display: flex; justify-content: space-between;"> <div>m m d d y y</div> </div>
Mailing address	City	State	ZIP Code

6. The following is a true and correct portion of Windmill Wellness Ranch's website, from <https://windmillwellnessranch.com/> (last visited May 28, 2024), posting the results of an "independent study" by Trac9.com:



7. The following is a true and correct portion of Windmill Wellness Ranch's website, from <https://windmillwellnessranch.com/about/best-outcomes-in-the-nation> (last visited May 29, 2024), stating that it employs Trac9.com for tracking metrics:

To that end, we employ meticulous independent third party tracking of our success metrics with Trac9, and have consistently found the Windmill Wellness approach surpasses those of other treatment centers.

8. The following is a true and correct portion of Trac9's website, from <https://trac9.com/our-results/> (last visited May 31, 2024), stating that "GRS" Trac9's product "was created to provide a comprehensive benchmark in total improvement throughout the course of treatment":



9. The following is a true and correct portion of Trac9's website, from <https://trac9.com/podcast/> (last visited May 31, 2024), stating that "[i]mproving clinical outcomes is dependent on feedback-informed care models":

Improving clinical outcomes is dependent on feedback-informed care models. There is a tremendous opportunity in the treatment space to track, analyze, and improve based on data. In the following podcast features, Dr. Jared Dempsey, Chief Scientist at Trac9 Informatics, discusses how Trac9 has collected data on over 40,000 patients through over 125,000 assessments to identify key data points that help their clients improve outcomes.

10. The following is a true and correct portion of Trac9’s website, from <https://trac9.com/podcast/> (last visited May 31, 2024), stating that a podcast featuring Dr. Dempsey was titled “Improved Outcomes Through Feedback-informed Clinical Care with Jared Dempsey”):



I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 31, 2024.

By: /s/ J. Rick Taché  
J. Rick Taché